

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 3898 – HB 3883**

March 1, 2010

**SUMMARY OF BILL:** Adds provisions to the Tennessee Small Business Investment Company Credit Act where failure to meet specified performance measures will result in the recapture of investment tax credits previously claimed and the forfeiture of future investment tax credits to be claimed by participating investors with respect to a TNInvestco. Requires each TNInvestco to report annually to the Department of Economic and Community Development (ECD) whether the designated capital received by the TNInvestco has been invested as required, and the amount remaining uninvested at the end of the preceding taxable year.

**ESTIMATED FISCAL IMPACT:**

**State Revenue – Net Impact – Not Significant**  
**Increase State Expenditures – Not Significant**

**Other Fiscal Impact – There could be a delay with the Rural Opportunity Fund receiving the amount of revenue estimated for the Fund. The fiscal memo for the Tennessee Small Business Investment Company Credit Act, as enacted by Public Acts 2009, Public Chapter 610, estimated a net increase of revenue to the Rural Opportunity Fund exceeding \$10,500,000 over time.**

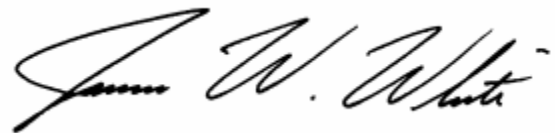
**Assumptions:**

- The Tennessee Small Business Investment Company Credit Act (TSBICCA) authorized a maximum of \$120,000,000 in investment tax credits to be offset against the gross premiums tax liabilities of certain insurance companies who qualify as participating investors.
- The \$120,000,000 of investment tax credits were to occur over a nine-year period beginning in FY09-10.
- Pursuant to Tenn. Code Ann. § 4-28-109(a)(1), the TSBICCA included a mechanism for TNInvestcos to repay authorized investment tax credits to the General Fund. The Department of Finance and Administration is required to certify that total payments to the General Fund equal the amount of gross premium tax revenue foregone as a result of the authorized investment tax credits. Once repaid, subsequent distributions were to be paid to the Rural Opportunity Fund and used to further the state's economic development efforts.

- Given that the state is to be made whole for any investment tax credits authorized, there would be no impact to the General Fund. Authorized investment tax credits may not reach the maximum authorized amount of \$120,000,000 under this bill, but any such amount authorized will be repaid to the General Fund. Also, in the event where one insurance company cannot cure non-compliance issues and is ultimately denied investment tax credits, another insurance company is likely to meet qualification criteria and be authorized the investment tax credits. In either scenario, there would be no impact to the General Fund over time.
- The fiscal memo released for SB 1203 – HB 2085 during the 2009 legislative session, which became Public Acts 2009, Public Chapter 610, estimated an increase of state revenue to the Rural Opportunity Fund exceeding \$10,500,000 over time. If investment tax credits are denied to certain insurance companies and the total amount of investment tax credits authorized are less than the maximum allowable amount of \$120,000,000, then a longer period of time could be required to realize the estimated amount exceeding \$10,500,000.
- The Department of Economic and Community Development indicates an increased probability of litigation between the state and certain insurance companies. Based on the information provided by ECD, any increase to state expenditures would be considered one-time and not significant. Any increased expenditures could be absorbed with existing resources without an increased appropriation or a reduced reversion.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

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